

Testimony on SB 372
Senate Committee on Labor, Public Safety and Urban Affairs
February 15, 2012

Good morning Chairman Wanggaard and members of the Committee. I am MaryAnn Lippert, Department of Children & Families Executive Assistant. Thank you for the opportunity to testify for information on Senate Bill 372, relating to unlicensed child care providers. With me is Randy Keys, DCF Chief Legal Counsel.

The Department of Children and Families takes all matters related to the safety of children very seriously. Before discussing some of the specifics included in SB 372, I will provide information about Department procedures related to complaints that a person is providing child care in violation of the licensing requirements.

The Department currently has authority under Wisconsin Statutes section 48.74, to investigate complaints concerning unlicensed child care. Complaints regarding potentially illegal child care facilities come from a variety of sources such as parents and other family members, neighbors, licensed providers, social service and law enforcement personnel, other community members and anonymous sources.

The Department has established procedures to investigate these complaints. In most cases a provider will cooperate with the investigation. Many are unaware of the requirements and will reduce the number of children in care or seek the appropriate license. Licensing specialists from the Department make follow-up on-site visits to verify that providers have reduced the number of children in care.

If a provider does not cooperate or the provider is still operating illegally when the licensing specialist makes a return visit, the Department will issue an administrative order pursuant to Wisconsin Statute section 48.715(2)(a). The order states the provider must immediately stop providing illegal care and outlines additional enforcement actions that may be taken if the provider fails to comply with the order. The provider may appeal the order by requesting an administrative hearing with the Department of Administration, Division of Hearing and Appeals.

Additional enforcement actions include:

- The Department may issue a forfeiture of \$10 to \$1,000 per day, per violation. The provider may appeal the forfeiture by requesting an administrative hearing with the Department of Administration, Division of Hearing and Appeals.
- The Department may also refer the provider to the appropriate District Attorney for criminal prosecution under Wisconsin Statutes section 48.76. Criminal penalties include a fine of not more than \$500 or imprisonment for not more than one year in county jail or both.
- The District Attorney may also seek a court ordered injunction to prevent further violations of Wisconsin Statute section 48.65.

The remainder of my testimony will address specific provisions of SB 372.

First, the bill proposes website promotion of a toll-free hotline to receive reports of alleged violations. Currently, the Department website provides county specific contact information for the Regional Child Care Licensing Offices, where complaints can be made. The public clearly knows how to contact the Department to file complaints of this nature.

- In 2009, the Department received 255 complaints related to providing care in violation of licensing requirements. Ninety of those complaints were substantiated.
- In 2010, the Department received 323 complaints related to providing care in violation of licensing requirements. 113 of those complaints were substantiated.

Second, SB 372 requires the Department to conduct a public information and education campaign promoting quality licensed care. DCF currently provides information on its website to help parents evaluate child care options. It also includes a child care search tool that contains licensing information and ratings under the YoungStar program to help parents find quality, regulated child care. The Department's ongoing public information and education campaign promoting YoungStar will further strengthen the message that quality care is important.

Much of the discussion to this point has focused on licensing requirements. However, licensed care is only one child care alternative available for families in Wisconsin. There are many types of legal but unregulated options.

In 2008, the National Center for Children in Poverty published a study on the Demographics of Family, Friend, and Neighbor Child Care in the United States. That study found that care provided in a caregiver's or a child's home by relatives, friends, neighbors, or babysitters/nannies is the most common form of non-parental care in the U.S. In Wisconsin, as in most states, this type of care is generally not regulated unless the provider is receiving a child care subsidy such as Wisconsin Shares.

SB 372 would require the Department to identify unlicensed placements as dangerous "to the health, safety, welfare and development of a child...." The characterization of *all* unlicensed care as dangerous is not fair to the many loving grandmothers, aunts, sisters, and neighbors who provide care to small numbers of children. We all know friends, family or neighbors who provide this type of care and we don't consider them dangerous.

Finally, the provision in the bill concerning ongoing consent to future unannounced visits raises concerns for the Department. This provision attempts to strip away fundamental Constitutional rights under the 4th Amendment. It is equivalent to telling the police that once they have investigated an alleged crime at a home, they never again need a search warrant to enter the house. How might this play out in your neighborhood?

Thank you for the opportunity to testify.

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Committee on Labor, Public Safety and Urban Affairs

Sirs:

I appreciate the opportunity to speak to you in support of Senate Bill 372.

I would ask: Have each of you had a brief experience that changed the quality and direction of your life forever?

Perhaps it was a meeting with someone special, a beautiful sunrise, a ride in the country, a question of a loved one, an argument, or a speech delivered with zeal and fervor.

I would hope that what I say today will be the equivalent to one of those brief experiences for you. I am asking that you support and pass Senate Bill 372, as it is just a beginning.

You may wonder why I would drive to Madison to address this Committee and ask that you support this bill. This is where I share my brief experience that changed the quality and direction of my life forever.

Since my children were born, Halloween has always been my favorite holiday. To dress in costumes and see the neighbors children going from home to home. Rushing down to our small downtown in Delavan to assist with the costume parade held by our American Legion and hand out more candy at the Legion Hall following the parade. Then, the greatest Halloween experience – a new grandson was born,

Ries Lazzeroni – born to proud parents Stacey and David! It was exciting to think that in twelve months we could take him to the parade, sitting proudly in his stroller dressed as what –a pumpkin, a fireman, a ghost, perhaps a hunter in camouflage? It was to be wonderful! That Halloween moment that we were looking forward to was stolen, as was kindergarten, music concerts, sports, scouts, fishing, hunting, high school and college, marriage and children of his own. Multiply these moments by two parents, four grandparents, sister and brother, aunts, uncles, cousins and friends. All those moments equal a lifetime of theft.

How were all these moments of a lifetime stolen? Ries attended an unlicensed daycare. Unknown to the family, this person had been warned to close an unlicensed daycare in 2006 and ignored the State of Wisconsin. When a daycare is licensed, they are trained regarding the care of children. The person who owned this daycare had not received any of the training regarding appropriate sleeping environment; placement of an infant to sleep; maintaining a visual of the infant when sleeping, and all of the other lessons learned when someone takes the courses required to be a licensed daycare provider. She inappropriately placed Ries on his stomach in a separate room on the floor, on a blanket, and shut the door – not checking on him. She did not check on him for a very long time – she fed all the other children lunch, put them down for naps, etc. And a minimum of 2 ½ hours following his death, found him on April 21, 2010 ending his life at 5 ½ months old.

She was taking care of eight children that day and professed to care about all of them, but not enough to take the necessary courses to keep them safe, so that everything that could have been done would have been done.

Moments that change a life? Yes, everyday I ask myself if he struggled. Yes, everyday I ask myself did he weep. Yes, because every day I ask myself why. Why would anyone take the responsibility of giving care to a child, and not learn everything possible to keep them safe. I, as a grandmother, and many look at grandmothers as 'out of touch,' have known better than to place an infant on their stomach, out of sight and on the floor. And then, while this case was pending in court for an unlicensed day care, this same day care provider watched three other children – because you don't need to be licensed with just three -- and still did not take the courses to keep those children safe. Why, why, why. What motivation could cause a person to be that obtuse? Let's list a few of what, I think, could be the reasons:

- When you are licensed the state can come in to make sure you are compliant and safe
- When you are licensed you have to report income
- When you are licensed you have to be responsible for appropriate meals or have them bring meals
- When you are accepting payment, you must be responsible

Are there inconveniences, yes, but they are to protect our most vulnerable population, our small children. I feel that

this Bill is step one, however, additional steps should be taken. At any time a person is accepting responsibility for a non-family member under the age of one, on a regular basis for pay, they should be required to take courses to keep these infants safe.

I have here a picture of Ries for each of you. I would ask each of you to keep this picture in your wallet. If this bill becomes difficult to pass on the Senate floor, please look at the picture to remember why you are pushing for passage. If, by looking at this picture, you doubt if this bill is enough and would amend it to make the penalties for not becoming licensed more stringent, I will do all I can to support you.

So, the next time you have a brief experience that changes the quality and direction of your life, please remember the families that have lost a lifetime of brief experiences with a child that was with them for such a short time.